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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,435	09/28/2005	Cyril David Veillat	4662-9	5278
23117 7590 03/03/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
COLE, ELIZABETH M				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
03/03/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/530,435

**Applicant(s)**

VEILLAT ET AL.

**Examiner**

Elizabeth M. Cole

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 10-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 16-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-9, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook, U.S. Patent No. 6,148,597 in view of WO 91/14029. Cook teaches a method of manufacturing a polyolefin fishing line which corresponds to the claimed monofilament like product comprising the steps of providing a plurality of polyolefin fibers, exposing the fibers to heat at a temperature above the melting point of the polyolefin, and drawing the heated plurality of fibers. See col. 3, lines 33-50; col. 4, lines 8-16. The plurality of polyolefin filaments can be joined together by plying or braiding before the heating and drawing step. See examples. The product exhibits monofilament-like properties. See col. 3, lines 23-27. The plurality of filaments can be further treated with polyurethanes and oils either before or after processing. See col. 4, line 59 – col. 5, line 21. With regard to the limitation that the process takes place without partial melting, Cook teaches heating to cause at least partial fusion and applying tension to prevent melting, so Cook teaches fusion without partial melting. See col. 3, line 1 - col. 4, line 352. Cook differs from the claimed invention because it does not disclose that the polyolefin fibers are staple fibers. WO '029 teaches that yarns can be made from staple fibers of ultra high molecular weight polyethylenes in addition to continuous filaments of ultra high molecular weight polyethylenes and that a benefit of using staple fibers to make the yarns is that it is less expensive because it permits the

use of some fiber which would have been wasted. See page 3, lines 10-19. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed staple fibers of ultra high molecular weight polyethylene rather than continuous filaments of ultra high molecular weight polyethylene as taught by Cook, in view of the teaching of WO '029 that both types of fibers were known to be suitable for fabrication into yarns and because WO '029 teaches that using staple fibers can make the yarns less expensive since it permits the use of some fibers which would have been wasted.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cook in view of WO '029 as applied to claims above, and further in view of JP 87015646. Cook does not disclose that the staple fibers are obtained by stretch-breaking a multifilament yarn. JP '646 teaches that a known method of forming staple fibers was by stretch-breaking multifilament yarns. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed the process of stretch breaking taught by JP '646 to form the staple fibers, in view of the teaching of JP '646 that this was a known method of obtaining staple fibers.

4. Applicant's arguments filed 12/11/08 have been fully considered but they are not persuasive. Applicant argues that Cook in view of WO '029 does not render the claimed invention obvious because the comparative data shows that the claimed invention has an unexpected improvement in abrasion resistance and that this would not have been expected from the teachings of Cook in view of WO '029. However, Cook discloses the claimed process except that it does not teach employing staple fibers to make the yarn.

WO '029 is relied on to show that yarns can be made from staple fibers of ultra high molecular weight polyethylenes in addition to continuous filaments of ultra high molecular weight polyethylenes and that a benefit of using staple fibers to make the yarns is that it is less expensive because it permits the use of some fiber which would have been wasted. See page 3, lines 10-19. While it is true, that neither WO '029 nor Cook teach that the resulting yarn would have a higher than expected abrasion resistance it is noted that the instant claims are drawn to the process, not to the article, and do not recite a particular abrasion resistance value. Further, the teaching of WO '029 establishes that in the art of making yarns from ultra high molecular weight polyethylenes, that it was known to use either continuous or staple fibers to form the yarn. Finally, it is noted that "The fact that appellant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious." Ex parte Obiaya, 227 USPQ 58, 60 (Bd.Pat. App. & Inter. 1985).

5. The Declaration under 37 CFR 1.132 filed 12/11/08 is insufficient to overcome the rejection of claims 1-9,16-17 based upon Cook in view of WO'029 as set forth in the last Office action because: as set forth above, although the specification establishes that the instant invention results in an unexpected improvement in the abrasion resistance versus the invention of Cook, the instant claims are drawn to a process, not a product. Cook teaches the process except for the use of staple rather than continuous filaments. WO '029 provides a teaching that both staple and continuous filaments can be used to make yarns in this art and that staple fibers are less expensive. The fact that

applicant has recognized another benefit from doing what the art suggests, (improved abrasion resistance in this case), does not make the claimed invention patentable, since WO '029 already suggests using staple fibers since they are less expensive.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

The examiner's supervisor Rena Dye may be reached at (571) 272-3186.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

/Elizabeth M. Cole/  
Primary Examiner, Art Unit 1794

e.m.c